

**MEMORANDUM**

**TO:** District Board of Zoning Adjustment

**FROM:** Paul Goldstein, Case Manager  
Joel Lawson, Associate Director Development Review

**DATE:** February 26, 2013

**SUBJECT:** BZA No. 18511 - Request for use and area variances to accommodate a mixed-use building on an alley lot (Square 2851, Lot 837)

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**I. OFFICE OF PLANNING RECOMMENDATION**

While the Office of Planning (OP) is supportive of creative infill development and the adaptive reuse of existing buildings, OP **recommends denial** of the following use and area variances to allow the conversion and expansion of an existing alley building into a three-story mixed-use development at 1018 Rear Irving Street NW (Square 2851, Lot 837):

Use Variance

- § 2507.1, multi-family residential use of an alley building

Area Variance

- § 2507.4, height variance for an alley building (39.5' proposed, 21' of relief needed)

Should the Board determine that the residential use and height is appropriate for this location, OP **recommends approval** of the other remaining relief requests:

Use Variance

- § 330.4, office use in an alley building

Area Variance

- § 2001.3, addition to a non-conforming structure

Following the original submission and based on discussions with OP and the Zoning Administrator, the Applicant filed a supplemental submission to add the additional area variance request from the maximum permitted height for alley buildings (§ 2507.4).

**II. AREA AND SITE DESCRIPTION**

Address:	1018 Rear Irving Street NW
Legal Description:	Square 2851, Lot 837 (hereinafter, the "Property") <sup>1</sup>
Ward/ANC:	1/1A
Lot Characteristics:	The Property is irregular in shape and totals 5,901 square feet. It borders alley segments on three sides. To the west, the alley network ranges from 10' to 15' wide, to the south the alley is 10' wide, and to the east the alley is 15' wide.

<sup>1</sup> OP notes that the Property also appears to be composed of record lots 144 & 206.



Zoning:	R-4: row dwellings and flats
Existing Development:	The Property is improved with a one-story alley building which has an estimated 4,072 square foot footprint. The building is 18.5' tall. Historically the building has been used for automotive repair, a business which has been discontinued.
Historic District:	N/A
Adjacent Properties:	The Property abuts the rear lot lines of row dwellings to the north and alley segments to the west, south, and east.
Surrounding Neighborhood Character:	The Square is mostly characterized by 2- to 2.5-story row dwellings along with a few 3-story row dwellings. A three-story multi-family apartment building fronts on Sherman Avenue NW on the Square's east side. More generally, the neighborhood is comprised of row dwellings, low density commercial uses, and some garden apartment buildings. A public elementary school is located northwest of the Square. The Property is approximately two and a half blocks east of the Columbia Heights Metro Station.

**III. PROJECT DESCRIPTION IN BRIEF**

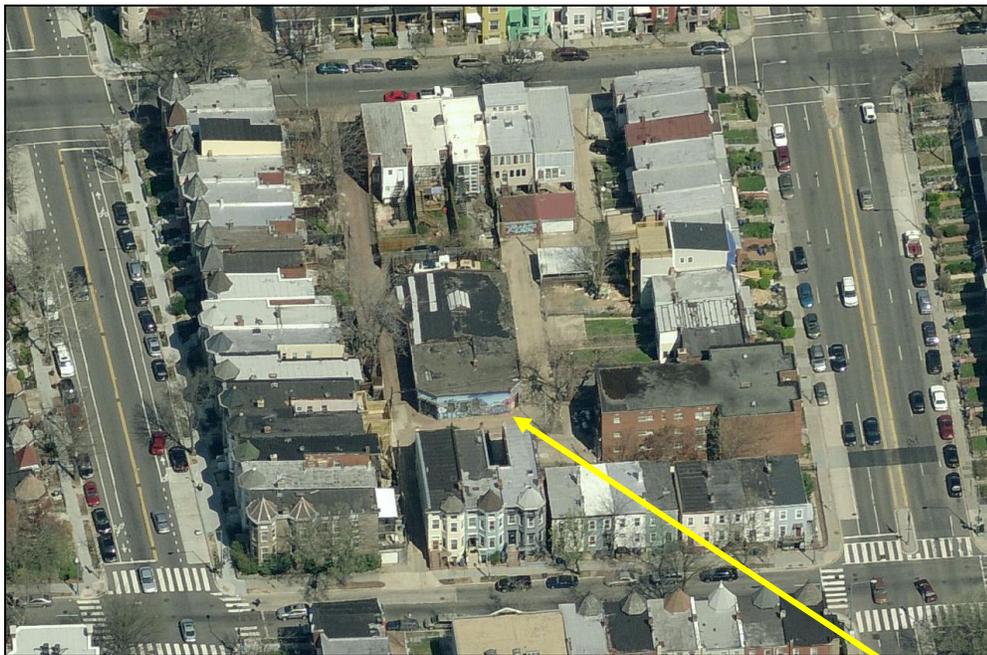
Applicants:	Alleyoop LLC
Proposal:	<p>The proposal would convert and expand an existing one-story alley building into a 3-story mixed-use alley building. The existing building would be adaptively reused, with space divided between office use (approximately 2,660 square feet) and 4 internal vehicular parking spaces.<sup>2</sup> Two additional external parking spaces for the office use would be located on the north side of the Property. Five residential units also would be constructed on 2 new floors. More specifically, the 2<sup>nd</sup> floor would house 3 units and the 3<sup>rd</sup> floor would contain 2 units. The Applicant indicates that the apartments would range in size from 850 to 1,400 square feet. Each residential floor would have a reduced footprint to accommodate rooftop patios and to reduce the project's scale, generating a lot occupancy of 54% on the 2<sup>nd</sup> floor and 36% on the 3<sup>rd</sup> floor. Overall, the building would rise to 39.5' in height.</p> <p>Garbage would be contained internal to the site and picked-up through a dedicated roll up door on the building's west side. Parking would be accessed through a garage entry at the building's southwest corner.</p>
Relief Sought:	<p>§ 2507.1, the use of an alley lot for multi-family residential dwellings (use variance)                  § 330.4, office use in an alley building (use variance)                  § 2507.4, height variance for an alley building (area variance)                  § 2001.3, addition to a non-conforming structure (area variance)</p>

**IV. IMAGES AND MAPS**

<sup>2</sup> The Applicant indicates that the proposed office square footage would include an approximately 594 square foot mezzanine which takes advantage of the high ceiling heights of the existing building.



Aerial view of the subject site (highlighted in blue and identified with arrow)



View of the subject block looking north across Columbia Road NW (Property identified)

**V. ZONING REQUIREMENTS**

The following table, which reflects information supplied by the Applicant, summarizes relevant zoning requirements for the project and the relief requested.

<i><b>R-4 Zoning</b></i>	<i><b>Restriction</b></i>	<i><b>Existing</b></i>	<i><b>Proposed</b></i>	<i><b>Relief</b></i>
Lot occupancy (building area/lot)	60%	69%	69%	Non-conforming: no change proposed

area) § 403				
Rear Yard (ft.) § 404	20' min	25'	25'	Conforms
Height (ft.) § 2507.4	12.4' max.	18.5'	39.5'	Relief needed: 21' of relief is needed
Parking (number) § 2101.1	Residential: 1 for each 3 dwelling units: min. 2 required  Commercial: 1 for each 600 ft. <sup>2</sup> of gross floor area and cellar floor area (All Other Uses Standard): min. 4 required	-	6	Conforms

**VI. RELIEF REQUESTED & OP ANALYSIS**

Section 2507.1 provides that “[e]xcept for use as a one-family dwelling, a structure shall not be erected, constructed, converted, altered, remodeled, restored, or repaired for human habitation on an alley lot.” Since the application proposes multi-family residential use in an alley building, a use variance is required.<sup>3</sup> Office use also is not permitted in a residential zone and therefore use variance relief is needed from § 330.4.<sup>4</sup> In addition, alley buildings are limited in height to the “distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley.”<sup>5</sup> The application indicates that the most restrictive façade of the building would limit the building to a maximum height of 12.4', actually less than the present building height of 18.5'. The proposed building would rise to 39.5' and therefore require an area variance from § 2507.4 for the additional height. Lastly, the existing building is non-conforming to lot occupancy (69%) and height, meaning that area variance relief from § 2101.1 is needed to enlarge the building.

The OP report will first address the residential use and height variance requests:

**Use Variance Relief** (§ 2507.1, multi-family residential use)

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions and does the unique or extraordinary conditional impose an exceptional and undue hardship upon the owner of the property?**

Physically, the site is an irregular shape, exceptionally large for an alley lot at about 5,900 square feet, and is bordered by three public alley segments. It also is the sole alley lot in the Square. In addition, the site is improved with a nearly century old single-story industrial building configured for a now defunct automotive repair operation. The property apparently contains some contamination from “solvents and petroleum” related to the property’s past use, a condition that also would need to be addressed during construction.

The Property’s uniqueness, however, does not impose an undue hardship upon the owner of the Property related to the proposed multi-family residential use. The alley lot regulations plainly prohibit multi-family dwellings on alley lots, and even a single residential unit would not be permitted on the

<sup>3</sup> The Zoning Administrator has previously indicated to OP that additional relief (such as §§ 2507.2 or 2507.3) related to the substandard alley width would not be necessary for multi-family development on alley lots.

<sup>4</sup> Section 2003 “Changing Uses Within Structures” does not relieve the Applicant from the needed relief due to § 2003.5 “In Residence Districts, the proposed use shall be either a dwelling, flat, apartment house, or a neighborhood facility.”

<sup>5</sup> See § 2705.4.

Property due to the site's location along a less than 30' wide alley network.<sup>6</sup> While the Applicant can reasonably contend that existing development on the lot may impair the ability to provide a conforming R-4 detached dwelling, flat, or other use, it is less intuitive that the owner would suffer an undue hardship if not permitted to construct 5 residential units.

- **Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

The relief cannot be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map. Multi-family use on an alley lot is not permitted in any zone, and the R-4 zone in particular is not generally intended for new apartment use.<sup>7</sup>

The Applicant's proposal requires a substantial amount of zoning relief to accommodate the five residential units. Nevertheless, ANC 1A has voted in favor of the project and three neighbors have executed letters of support. OP further notes that the Applicant has shared with OP a proposed pedestrian plan, traffic plan, and waste management plan developed in consultation with DDOT. Such strategies could improve the alley conditions generally and help to mitigate any impact of the alley lot development. OP encourages the Applicant to further address any project impacts at the public hearing.

**Area Variance Relief** (§ 2507.4, height)

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

OP does not find that the unique situation imposes a practical difficulty related to the requested height. The application indicates that the site is currently non-conforming to height at 18.5' tall, which exceeds the 12.4' permitted on the lot. The Applicant proposes to further expand the existing non-conformity by an additional 21' to accommodate a prohibited use, an amount which substantially exceeds the maximum permitted height for the Property.

- **Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Concerning impact on the public good, the Applicant indicates that the project massing would step back on the upper floors and that no wall abutting the alley would rise 39.5'. The Applicant further states that the variation in building massing would allow greater penetration of light and air into the alley and adjacent properties. Nonetheless, OP continues to have concerns relating to the impact on neighbors from the project's proposed height. OP encourages the Applicant to further address any project impacts at the hearing.

The relief cannot be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map. The height of alley buildings is limited by the width of the alley in all zones, and the proposed height is more than triple the height permitted for the subject alley lot.

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<sup>6</sup> Section 2507.2 provides that "A one-family dwelling shall not be erected or constructed on an alley lot unless the alley lot abuts an alley thirty feet (30 ft.) or more in width and has from the alley access to a street through an alley or alleys not less than thirty feet (30 ft.) in width."

<sup>7</sup> Section 330.3 provides that "[t]he R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement."

Should the Board determine that the proposed multi-family use and height are appropriate for the site, OP is supportive of granting relief for office use and expanding a non-conforming structure.

**Use Variance Relief** (§ 330.4, commercial use)

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The Property's uniqueness does lead to a practical difficulty in using the existing building for a conforming use. Historically, the building operated as an automotive repair shop, which is a non-conforming use, and the proposal would adaptively reuse a portion of the building for a different commercial purpose (office). The building exceeds 4,000 square feet in size and requires significant remediation and renovation. More specifically, the Applicant indicates that:

“1) The building and site contain petroleum and solvent contamination that must be remediated during excavation, and require the removal of the existing concrete slab floor and 2) Lack of maintenance on the existing building and roofing requires substantial reconstruction to the roof structure and exterior walls. The costs associated with the remediation and substantial structural repairs prevent it from being cost effective to convert the building to an arts use” or other conforming uses such as storage and parking lots.

The Applicant does not intend to continue the non-conforming automotive repair operation on the Property, but provides that a commercial use still would be necessary to make the Property (and needed investments) financially viable.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Relief for the office use could be granted without substantial detriment to the public good. An office use likely would be less impactful, in terms of noise or vehicle traffic, than the historical automotive repair use. Additionally, the presence of an active daytime office use could improve both the upkeep and security of the alley.

**Area Variance Relief** (§ 2001.3, expansion to a non-conforming structure)

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

Should the Board determine that the residential use and height are appropriate for the site, the Property's uniqueness does create a practical difficulty for adaptively reusing and expanding the existing structure. The current one-story building is non-conforming to lot occupancy (69%) and height (18.5'). Adding stories could not occur without relief from § 2001.3.<sup>8</sup>

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<sup>8</sup> Section 2001.3 provides that:

Enlargements or additions may be made to the structure; provided:

- (a) The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13; and

- **Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

The relief could be granted from § 2001.3 without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Regulations and Map.

#### **VII. ANC/COMMUNITY COMMENTS**

ANC 1A, as reflected in a submission dated January 8, 2013, voted in support of the project. The Applicant also has provided OP with three executed letters of support from neighbors. OP has not received any submissions expressing opposition to the project at the time of this report.

#### **VII. OTHER DISTRICT AGENCIES**

The Applicant has engaged in discussions with DDOT regarding the proposal. OP anticipates that DDOT will submit a report under separate cover. The Applicant also has informed OP that he has reached out to FEMS and D.C. Water to discuss the project, although OP has not received any feedback from these agencies to date.

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- (b) The addition or enlargement itself shall:
    - (1) Conform to use and structure requirements; and
    - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.